Doc Code: AP.PRE.REQ

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

| | Docket Number (Optional) |
|---|---|
| | INFAP140US |

| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] | Application Number | Filed |
|---|---|---|
| | 10/709,992 | June 11, 2004 |
| on ___August 15, 2008___ | First Named Inventor | |
| Signature ___/Christine Gillroy/___ | Sheng-Yuan Cheng | |
| | Art Unit | Examiner |
| Typed or printed name ___Christine Gillroy___ | 2617 | Sharad K. Rampuria |

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
   Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
   (Form PTO/SB/96)

☑ attorney or agent of record.   Registration number ___36,981___

☐ attorney or agent acting under 37 CFR 1.34.

   Registration number if acting under 37 CFR 1.34 _____

/Thomas G. Eschweiler/
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Telephone number
August 15, 2008
_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐   *Total of _____ forms are submitted.

Docket No. **INFAP140US**                                      2007P90204US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re **PATENT** application of:

Applicant:           Sheng-Yuan Cheng

Application No.:      10/709,992

For:                 DEVICE AND METHOD THEREOF FOR TRANSMITTING A MAC
                     SERVICE DATA UNIT IN A NETWORK SYSTEM

Filing Date:         June 11, 2004

Examiner:            Sharad K. Rampuria

Art Unit:            2617

## PRE-APPEAL REQUEST FOR REVIEW IN RESPONSE TO THE ADVISORY ACTION DATED JULY 16, 2008

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Favorable reconsideration of the above-identified application is respectfully requested in view of the following amendments and remarks.

## REMARKS

Claims 1-7 are pending. Reconsideration of the application is respectfully requested for at least the following reasons.

### I.    REJECTION OF CLAIMS 1-7 UNDER 35 U.S.C. § 103(a)

Claim 1-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2005/0053037 (Ginzburg et al.) in view of U.S. Publication No. 2004/0120292 (Trainin). Withdrawal of the rejection is respectfully requested for at least the following reason.

#### i.    *The combination of Ginzburg et al in view of Trainin does not teach converting the received piece of frame data into a MAC protocol data unit (MPDU) and outputting the MPDU, as recited in claims 1 and 4.*

Independent claims 1 and 4 are directed to a method and system for transmitting a MAC service date unit (MSDU) in a network system with the MSDU having a plurality of pieces of frame data. The method comprises transmitting a MAC service data unit (MSDU) in a network system, the MSDU having a plurality of pieces of frame data, and when finishing receiving each piece of frame data of the MSU, even if not all of the pieces of frame data of the MSDU have been received, converting the received piece of frame data into a MAC protocol data unit (MPDU) and outputting the MPDU. It is respectfully submitted, the combination of Ginzburg et al. and Trainin does not teach this feature.

As conceded in the Office Action, Ginzburg et al. do not teach wherein for at least one of the plurality of pieces of frame data, converting begins prior to having received all of the plurality of pieces of frame data of the MSDU as claimed (*See* O.A., 4/15/08, p. 3). However, the Office Action asserts that Trainin does teach this feature, citing Paragraphs 36 and 39-40 of the reference (*See* O.A., 4/11/08, p. 3, paragraph 2). As will be more fully appreciated below, Trainin do not teach this feature, and thus the

combination of Ginzburg et al. in view of Trainin do not render obvious the invention of claim 1.

Trainin discloses, as illustrated in Figure 2, a wireless local area network (WLAN) device (200, Fig.2) that includes a medium access control (MAC) device (204) and a physical (PHY) device (202) wherein the PHY device receives and transmits frames (Fig.3) over a wireless medium. (*See* Fig. 2-3, Abstract).

In Trainin, Figure 3 illustrates an IEEE std. 802.11 frame format for a physical layer convergence procedure (PLCP) protocol data unit (PPDU) that incorporates three frame portions, a (PLCP) preamble, a PLCP header, and a MAC protocol data unit (MPDU) (*See,* Page 2, paragraph 31). Trainin teaches that the PPDU, as illustrated in Figure 3, represents the format of a frame as it is transmitted over the air interface. Figure 4 of Trainin, further illustrates an IEEE std. 802.11 frame format for the MPDU frame portion of the PPDU frame illustrated in Figure 3. The sub-frame MPDU contains further sub-frames that include a frame body (404) or MSDU as taught by Trainin (*See, Page 3, paragraph 35*).

Figure 6 of Trainin illustrates a method for receiving a frame and sending a response (acknowledgement frame (ACK)) in accordance with an embodiment of the invention, wherein the procedure is performed by the MAC device upon the receipt of the PLCP preamble 302 (*See, Page 4, paragraph 58*). However it is respectfully submitted, ***the method and device as taught be Trainin, does not convert the received piece of frame data into a MPDU before receipt of the full MSDU but instead sends an ACK frame to the transmitter of the frame.***

The Office Action asserts that Trainin does teach this feature, citing to Paragraphs 67,55 and 27 of the reference (*See* O.A., 7/16/08, p. 3, paragraph 2). Further, the O.A. states that Trainin teaches that data frames provided to a transmitter are of variable length, which can range in different byte sizes, and in some cases can include only fragments of a message due to noisy air interfaces. In those instances where a longer frame is broken into smaller pieces due to noise, ***each fragment is transmitted in a separate piece, wherein upon receipt at the receiver an ACK***

*response is sent back to the transmitter.* While Trainin states that the generation of the acknowledgement response packet can begin before receipt of the entire fragment, Trainin does not discuss any *timing* in the *conversion* of the data frames into smaller fragments and the *transmission* of such fragments, which is the subject matter of claim 1. That is, Trainin does not teach or suggest the transmission of an individual fragment as soon as its ready to go, and before other fragments from the larger payload frame are ready. Therefore Trainin does not provide the missing element, and thus does not remedy the deficiencies in Ginzburg et al. Therefore claim 1 is non-obvious over the cited prior art. Accordingly, withdrawal of the rejection is respectfully requested.

## II.    CONCLUSION

For at least the above reasons, the claims currently under consideration are believed to be in condition for allowance.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this response, the Commissioner is hereby authorized to charge the Deposit Account Number 50-1733, INFAP139US.

Respectfully submitted,
ESCHWEILER & ASSOCIATES, LLC

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